

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

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| AZMI ABDELMAJID, Individually and on behalf of all other similarly situated v. ENERSAFE, LLC | CIVIL ACTION NO: 2:11-cv-00448-RWS |
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**MINUTES OF THE MOTION HEARING
HELD BEFORE THE HONORABLE ROBERT W. SCHROEDER III
JUNE 23, 2015**

OPEN: 1:18 p.m.

ADJOURN: 2:27 p.m.

ATTORNEYS FOR PLAINTIFF: See Attorney Sign-In Sheet

ATTORNEY FOR DEFENDANTS: See Attorney Sign-In Sheet

LAW CLERK: Elizabeth Chiaviello

COURTROOM DEPUTY: Shedera Combs

COURT REPORTER Brenda Butler

1:18 p.m. In Chambers Conference

1:30 p.m. Case called; Parties introduced themselves and announced ready; Court states this is a hearing on the Motion for Notice (Dkt. 25) and the Motion to Strike (Dkt. 63).

1:33 p.m. Mr. Hommel gives a brief background about the timing of the Motion for Notice; Mr. Hommel argues the Motion for Notice (Dkt. 25) and Motion to Strike (Dkt. 63).

1:44 p.m. Court asks Mr. Hommel what similarly situated means?

1:45 p.m. Mr. Hommel responds and describes what make the instant Plaintiffs similarly situated.

1:48 p.m. Court asks Mr. Hommel if all supporting declarations are the same or if they have differences.

1:48 p.m. Mr. Hommel responds that fifty-two declarations are exactly the same.

1:49 p.m. Mr. Harvey responds regarding Motion for Notice (Dkt. 25)

1:50 p.m. Court asks Mr. Harvey why the Plaintiffs are not similarly situated.

1:50 p.m. Mr. Harvey responds and cites specific cases.

1:57 p.m. Court asks Mr. Harvey if the cases are cited in the briefing.

1:47 p.m. Mr. Harvey states the cases are cited. Mr. Harvey continues with his response regarding the Motion for Notice (Dkt. 25)

2:01 p.m. Court asks Mr. Harvey if Defendant's position defeats the Plaintiffs' motion at this stage in the litigation.

2:01 p.m. Mr. Harvey states that Plaintiffs should be defeated at this point due to the dissimilarity that he has brought to the Court's attention. Mr. Harvey continues with his response regarding the Motion for Notice (Dkt. 25). Mr. Harvey responds regarding the Motion to Strike (Dkt. 63).

2:11 p.m. Court asks Mr. Harvey how many site safety supervisors there are in the company.

2:11 p.m. Mr. Harvey explains that there are fewer than in years past, but he would say mid-hundreds.

2:12 p.m. Court asks Mr. Harvey about the prior lawsuits.

2:12 p.m. Mr. Harvey responds.

2:13 p.m. Mr. Hommel continues argument.

2:15 p.m. Court asks Mr. Hommel if Plaintiffs did no additional discovery because they believed it wasn't needed.

2:15 p.m. Mr. Hommel responds that it wasn't needed because of the declarations supporting Plaintiffs' position.

2:19 p.m. Mr. Harvey responds.

2:21 p.m. Court asks Mr. Harvey if the Plaintiffs all have the same title.

2:21 p.m. Mr. Harvey responds it is not the title but rather the job duties.

2:24 p.m. Court asks Mr. Harvey if the Court grants the motion what would occur between the order and a de-certification hearing.

2:25 p.m. Mr. Harvey explains that the number of Plaintiffs would increase to a large class and additional discovery would take place.

2:25 p.m. Mr. Hommel responds that the opt-in is in the 20% range and that after the notice period ends the parties would engage in representative discovery.

2:25 p.m. Mr. Harvey responds that Judge Gilstrap ruled that this case isn't proceeding on representative discovery.

2:27 p.m. Court thanks the parties and will get a ruling out shortly; Court adjourns.